

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION

DALE R. MUFFENY and :
PAULA MUFFENY, :
: CIVIL ACTION
Wheeling WV 26003 :
Plaintiffs, :
: No. 1:21-cv-255 ~~1:21-cv-255~~
vs. :
JERYL J. WILBORN, :
Meadville, PA 16335 : JURY TRIAL YES NO
Defendant. :
and :
WINDOW NATION ACQUISITION, LLC:
c/o Corporation Service Co. :
251 Little Falls Drive :
Wilmington, DE 19808 :
Defendant. :
and :
WINDOW NATION BLOCKER :
HOLDCO, LLC :
c/o Incorp Services :
919 North Market St., Ste 950 :
Wilmington, DE 19801 :
Defendant. :
and :
WINDOW NATION HOLDING III :
GP, LLC :
c/o Corporation Service Co. :
251 Little Falls Drive :
Wilmington, DE 19808 :
Defendant. :
and :
WINDOW NATION HOLDING III, LP :
c/o Corporation Service Co. :
251 Little Falls Drive :
Wilmington, DE 19808 :
Defendant. :

and :
WINDOW NATION HOLDING II, LLC :
c/o Corporation Service Co. :
251 Little Falls Drive :
Wilmington, DE 19808 :
Defendant. :
and :
WINDOW NATION HOLDING, LLC :
c/o Incorp Services :
919 North Market St., Ste 950 :
Wilmington, DE 19801 :
Defendant. :
and :
WINDOW NATION INTERMEDIATE :
HOLDING, LLC :
c/o Incorp Services :
919 North Market St., Ste 950 :
Wilmington, DE 19801 :
Defendant. :
and :
WINDOW NATION, LLC :
8110 Maple Lawn Blvd, Ste 335 :
Fulton, MD 20759 :
Defendant. :
and :
WINDOW NATION, LLC :
c/o Incorp Services, Inc. :
1519 York Road :
Lutherville, MD 21093 :
Defendant. :
and :
WINDOW NATION, LLC :
4350 Renaissance Pkwy, Ste C :
Warrensville Heights, OH 44128 :
Defendant. :
and :

WINDOW NATION, LLC :
c/o Incorp Services, Inc. :
9435 Waterstone Blvd, Ste 140 :
Cincinnati, OH 45249 :
Defendant. :
:

COMPLAINT

AND NOW, come the Plaintiffs, by and through their attorney, Joseph H. Ellermeyer, Esquire, and present the following Complaint:

I. The Parties to This Complaint

A The Plaintiffs

Names: DALE R. MUFFENY and PAULA MUFFENY
Street Address:
City and County: Wheeling / Ohio County
State and Zip Code: West Virginia 26003
Telephone Number: 304-312-3301

B The Defendants

1. Name: JERYL J. WILBORN
Job Title: Unknown
Street Address:
City and County: Meadville / Crawford
State and Zip Code: Pennsylvania 16335
Telephone Number: 412-298-0511
2. Name: WINDOW NATION ACQUISITION, LLC
Street Address: c/o Corporation Service Co.
251 Little Falls Drive
City and County: Wilmington / New Castle
State and Zip Code: Delaware 19808
Telephone Number:
3. Name: WINDOW NATION BLOCKER HOLDCO, LLC
Street Address: c/o Incorp Services
919 North Market Street, Suite 950
City and County: Wilmington / New Castle
State and Zip Code: Delaware 19808
Telephone Number:

4. Name: WINDOW NATION HOLDING III GP, LLC
Street Address: c/o Corporation Service Co.
251 Little Falls Drive
City and County: Wilmington / New Castle
State and Zip Code: Delaware 19808
Telephone Number:
5. Name: WINDOW NATION HOLDING III, LP
Street Address: c/o Corporation Service Co.
251 Little Falls Drive
City and County: Wilmington / New Castle
State and Zip Code: Delaware 19808
Telephone Number:
6. Name: WINDOW NATION HOLDING II, LLC
Street Address: c/o Corporation Service Co.
251 Little Falls Drive
City and County: Wilmington / New Castle
State and Zip Code: Delaware 19808
Telephone Number:
7. Name: WINDOW NATION HOLDING, LLC
Street Address: c/o Incorp Services
919 North Market Street, Suite 950
City and County: Wilmington / New Castle
State and Zip Code: Delaware 19801
Telephone Number:
8. Name: WINDOW NATION INTERMEDIATE
HOLDING, LLC
Street Address: c/o Incorp Services
919 North Market Street, Suite 950
City and County: Wilmington / New Castle
State and Zip Code: Delaware 19801
Telephone Number:
9. Name: WINDOW NATION, LLC (corporate address)
Street Address: 8110 Maple Lawn Blvd, Suite 335
City and County: Fulton / Howard
State and Zip Code: Maryland 20759
Telephone Number:
10. Name: WINDOW NATION, LLC (registered address)
Street Address: c/o Incorp Services, Inc.
1519 York Road
City and County: Lutherville / Baltimore
State and Zip Code: Maryland 21093
Telephone Number:

11. Name: WINDOW NATION, LLC (corporate address)
Street Address: 4350 Renaissance Pkwy, Suite C
City and County: Warrensville Heights / Cuyahoga
State and Zip Code: Ohio 44128
Telephone Number:
12. Name: WINDOW NATION, LLC (registered address)
Street Address: c/o Incorp Services, Inc.
9435 Waterstone Blvd, Suite 140
City and County: Cincinnati / Hamilton
State and Zip Code: Ohio 45249
Telephone Number:

II. Basis for Jurisdiction

28 U.S.C Section 1332 as in this case citizens of one State are suing an individual and entities located in other States and the amount at stake is more than \$75,000. No Defendant is a citizen or entity located in the same State as the Plaintiffs.

Basis for Jurisdiction - Diversity of Citizenship

1. The Plaintiffs are citizens of the State of West Virginia.
2. a. The Defendant Jeryl J. Wilborn is a citizen of the State of Pennsylvania.
2. b. The Defendant Window Nation Acquisition, LLC, is incorporated under the laws of the State of Delaware, and has its principal place of business in Delaware.
2. c. The Defendant Window Nation Blocker Holdco, LLC, is incorporated under the laws of the State of Delaware, and has its principal place of business in Delaware.

2. d. The Defendant Window Nation Holding III GP, LLC, is incorporated under the laws of the State of Delaware, and has its principal place of business in Delaware.

2. e. The Defendant Window Nation Holding III, LP, is incorporated under the laws of the State of Delaware, and has its principal place of business in Delaware.

2. f. The Defendant Window Nation Holding II, LLC, is incorporated under the laws of the State of Delaware, and has its principal place of business in Delaware.

2. g. The Defendant Window Nation Holding, LLC, is incorporated under the laws of the State of Delaware, and has its principal place of business in Delaware.

2. h. The Defendant Window Nation Intermediate Holding, LLC, is incorporated under the laws of the State of Delaware, and has its principal place of business in Delaware.

2. i. The Defendant Window Nation, LLC, is incorporated under the laws of the State of Maryland, and has its principal place of business in Maryland.

2. j. The Defendant Window Nation, LLC, is incorporated under the laws of the State of Delaware, and has its principal place of business in Delaware and is registered as a foreign corporation in Ohio and Pennsylvania.

3. The Amount in Controversy

The amount in controversy is more than \$75,000, not counting interest and costs of Court because of the nature and extent of the damages and injuries sustained by the Plaintiffs.

III. Statement of Claim

1. On September 24, 2019, in Robinson Township, Washington County, Pennsylvania, the Plaintiff Husband, Dale R. Muffeny, was operating a motor vehicle traveling onto I-576 west bound with the right-of-way while the Defendant, Jeryl J. Wilborn, was on the ramp from SR-22 when Defendant Wilborn failed to stop at a posted stop sign as the Defendant Wilborn was admittedly inattentive due to his looking at his GPS and traveling into the path of the Plaintiff Husband, Dale R. Muffeny, and his vehicle so as to cause a collision between the two vehicles. Such actions by Defendant Wilborn were negligent under the circumstances. This collision, caused by the negligence of the Defendant Wilborn, resulted in severe and permanent injuries, loss of income and employment, physical pain, suffering, mental anguish, inconvenience, loss of life's pleasures, physical disability, inability to continue his usual activities, emotional distress, payment of expenses for medical treatment, loss of employee benefits including retirement contributions, earning increases and perks, and other compensatory damages and/or hedonic damages.

2. The vehicle being driven by Defendant Wilborn was then owned by Window Nations, and the Defendant Wilborn was acting, at that time, as the agent, employee or assign of Window Nations. The Defendant Window Nations, in all of its legal forms and various entities operating under said name, are parties as owner of the vehicle and as the employer/principal of the Defendant Wilborn; therefore, the Defendant Window Nation is vicariously liable for the actions of Defendant Wilborn.

3. The Plaintiff, Paula Muffeny, is the spouse of the Plaintiff Husband and is presenting a claim for loss of consortium.

IV. Relief

The Plaintiffs request that the Court Order payment to the Plaintiffs in an amount in excess of \$75,000 along with such other relief as deemed appropriate by the Court.

The Plaintiff, Dale R. Muffeny, continues to undergo medical care for the significant, severe and permanent injuries and suffers ongoing economic and hedonic losses related to this accident which was caused by the Defendant, Jeryl J. Wilborn, who was driving a vehicle owned by the Defendant Window Nations and who was an employee, agent or assign of said Defendant Window Nation. The Plaintiff Wife continues her loss of consortium claim due to the injuries and losses sustained by her husband.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information and belief that this Complaint:

- (1) Is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
- (2) Is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law;
- (3) The factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) The Complaint otherwise complies with the requirements of Rule 11.

Date of signing: September 14, 2021

Signature of Attorney s/Joseph H. Ellermeyer, Esquire

Printed Name of Attorney Joseph H. Ellermeyer, Esquire

Bar Number PA ID No. 43944

Name of Law Firm Achille Law, P.C.

Street Address 379 Main Street

State and Zip Code Brookville, PA 15825

Telephone Number 814-849-6701

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